

Competitive vs. Noncompetitive Purchases Guideline - 1.3.G (07/31/02)

[Last Update: \(07/31/02\) RShibata:kma - 1.3.G.0](#)

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This guideline has been revised to incorporate an exception to sole-source documentation requirements for international procurements.

Definitions

Sole-source - A solicitation from one supplier which is the only known practicable source that can meet SNL's actual requirements to provide goods or services. A sole source may also be based on a technical and/or cost benefit to SNL, the source of supply is limited to a single

supplier of goods or services, although other sources may exist.

Sole-make (brand name product) means a commercial product described by brand name and make or model number or other appropriate nomenclature by which that product is offered for sale to the public by the particular manufacturer or various distributors.

General Requirement - 1.3.G.1

Effective sourcing decisions form the basis of creating a sound supply base. SNL is responsible for ensuring competition, whenever it is feasible and practicable under the existing conditions and circumstances. An SCR is always faced with the issue of what the "right" number of suppliers to be solicited is. The ideal situation is to have sufficient qualified potential suppliers to ensure free and adequate competition. While circumstances for specific procurements may require a larger number of proposers, usually two-to-five firms will be sufficient. The SCR needs to make a reasoned judgment based on the facts of each individual procurement..

- The following items should be considered: whether the subject procurement can be procured competitively,
 - the reasons precluding competition for the requirement, and
 - whether it is feasible to develop other sources.
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Competitive Procurements - 1.3.G.2

A purchase is considered competitive if:

- offers are solicited and there are at least two responsible Contractors who can satisfy SNL requirements by submitting priced offers which are responsive to the expressed requirements of the solicitation,
- the Offerors independently contend for a contract, and
- the contract is to be awarded to the responsive and responsible Contractor submitting the best value to SNL.

Note: For details on "price competition," see Guideline 3.2.G.2.a - Adequate Price Competition.

Multiple Quotations Solicited/One Quote Received - 1.3.G.2.a

When several sources are solicited in an effort to obtain competition and only one responsive/acceptable offer is received, the procurement is considered to be competitive, if the following conditions are met.

There was a reasonable expectation, based on market research or other assessment, that two or more responsible Contractors, competing independently, would submit priced offers responsive to the solicitation's expressed requirement, even though only one offer is received from a responsible, responsive Contractor and if:

- based on the offer received, the SCR can reasonably conclude that the offer was submitted with the expectation of competition, e.g., circumstances indicate that:
 - the Contractor believed that at least one other Contractor was capable of submitting a meaningful, responsive offer, and
 - the Contractor had no reason to believe that other potential Contractors did not intend to submit an offer, and
- price analysis (see Guideline 3.2.G) clearly demonstrates that the proposed price is reasonable in comparison with current or recent prices for the same or similar items purchased in comparable quantities, under comparable terms and conditions under contracts that resulted from adequate price competition.

Marketplace Competition - 1.3.G.2.b

The purchase of commercial, off-the-shelf items may be considered competitive when based on marketplace competition.

- **Example:** A comparison of two or more advertisements, brochures, catalogs, etc., for like items, which meet SNL's requirements. A copy of the advertisements, brochures, catalogs, etc., used for the comparison or an abstract of prices, delivery, terms and other pertinent information shall be included or referenced (using the date of publication) in the PO/contract file to document the competition. Information obtained off the Internet should be referenced by stating the pertinent web address.
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Noncompetitive Procurements 1.3.G.3

The following sections will address noncompetitive procurements, which are considered to be sole-source.

Sole-make procurements may also be placed on a noncompetitive basis and are addressed in

detail under Section 1.3.G.4.

Sole-Source - 1.3.G.3.a

A sole-source requirement necessitates justification and is valid if it meets the **Three Part Test** as required by the Department of Energy:

- being the only known source,

The sole source documentation must make an affirmative statement that the source is the only known source
- being able to fully meet SNL's actual needs,

The sole source documentation must clearly state Sandia's actual needs and which of the actual needs could not be met by excluded Contractor(s), and
- reasonable attempts to locate or develop other sources have been unsuccessful or are not feasible.

The sole source documentation must clearly state what attempts were made by the SCR/Requester to locate or develop other sources or must specifically state why it is not feasible to develop or locate other sources.

A sole-source is appropriate for situations such as:

- Proprietary - Goods/Services are proprietary to one source. The existence of a patent is not by itself a valid reason for a sole-source. The existence of a copyright may be a valid reason for a sole-source.
- Follow-on Contract - Goods/Services are a continuation of a previous contract, which does not lend itself to competition, or it is not cost-effective to compete.
- Expertise - Exclusive expertise is required and developing that expertise in an alternate supplier is neither practical, nor feasible due to excessive costs.
- Facilities/Equipment - The proposed supplier has specialized facilities and/or equipment that are vital to the effort.
- Only Qualified Supplier - Only one qualified supplier exists. Excessive cost/schedule impact to qualify alternative sources.
- Compatibility - Compatibility with existing items is required.
- Standardization - Standardization of product is required for reliability, interchangeability, operation, calibration, maintenance, etc.
- Other Noncompetitive Situations - Under certain circumstances it is not realistic, nor cost effective, to use multiple sources for the same end item, to switch suppliers frequently and to go out for quotes constantly. It may make good business sense to make a

noncompetitive award even though other sources may exist. If in SNL's judgment it is determined that it is not practical to compete a requirement and/or it is more cost-effective to make a noncompetitive award, Sandia may do so. A non-competitive award may be appropriate for situations such as:

- Prior Experience - The proposed supplier has extensive prior experience that is vital to the effort and it is neither cost-effective nor feasible to develop other sources.
- Tooling/Setup - Special tooling, mold charge or costly setup is required, and the use of more than one supplier is impractical or excessively costly.
- Unequivocal Quality - A given supplier may be so outstanding in the quality of product or in the service provided as to preclude serious consideration of buying elsewhere.
- Urgent Schedule Requirements - Schedules are critical and only the proposed supplier can meet them. Severe consequences will occur if schedules are not met. (This is not a preferred method of doing business and should be used only in rare instances. When this is used, a justification must be provided as to why proper planning could not have eliminated a noncompetitive requirement and what actions will be taken to prevent this from recurring in the future.)
- Cost Reduction - Lower costs will be incurred to source, process, expedite and inspect.
- Evaluation - SNL has a requirement to evaluate a specific product.

Market Survey - 1.3.G.3.b

Reasonable efforts must be made to locate or develop other sources and/or brands and the justification should describe these efforts. This may be done by conducting a market survey which might include literature/catalog searches, Requests for Information, phone surveys, or other methods of gathering information. Usually the market survey will provide the following information:

- supplier(s) and/or company/brand considered,
- person contacted,
- date,
- which of the actual requirements could not be met,
- what information was provided that deemed a supplier not-viable, and
- who performed the survey.

Usually a market survey should be conducted by the SCR in conjunction with the Requester. However, the SCR may take the initiative to perform a market survey to locate qualified

potential sources.

The Requester and the SCR then can review the data gathered and select the sources, which are potential suppliers. Based on this review, the SCR will determine who will receive a solicitation.

Literature Search - 1.3.G.3.c

The requesting organization may conduct a literature search to locate qualified potential sources that supply or produce the product/service required. The requesting organization will:

- review literature published by Contractors and/or manufacturers,
- document this review with the following:
 - who performed the search,
 - when was it done,
 - what information was sought and obtained,
 - which requirement(s) could not be met,
 - which Contractors/brands were considered, and
 - specifically why each was rejected or accepted,
- then forward this documentation to the SCR.

Adequacy of Market Survey/Literature Search - 1.3.G.3.d

If the survey/search...

is adequate,

has omitted sources capable of
furnishing the product/service requested,

Then the...

documentation provided by the requesting organization will aid in justifying the sole-source, and sole-make procurement.

SCR may include these sources in the solicitation after consultation with the requesting organization.

Note: If applicable, this information must be properly documented and included in, or attached, to the justification form or memorandum.

Sole-Make (Brand Name) Procurement -

1.3.G.4

A sole-make (brand name) purchase may be:

- competitive,
- limited competitive, or
- noncompetitive.

Competitive - 1.3.G.4.a

A competitive, sole-make procurement requires a particular function, requirement or characteristic of a brand name item and if the particular function, requirement or characteristic can be obtained by procuring another manufacturer's brand, it should be acceptable to the using organization. For such procurements, the PR will list the salient requirement of the brand name item required and the SCR will obtain competitive offers for such procurements.

When a brand name or equal purchase description is used, prospective Contractors must be given the opportunity to offer products other than those specifically referenced by brand name if those other products will meet the minimum actual needs of SNL. Brand name or equal purchase descriptions should state those salient physical, functional, or other characteristics of the referenced products, which are essential to the needs of SNL.

In this scenario, sole-source documentation is not required.

Limited Competitive - 1.3.G.4.b

When the sole-make procurement requires only one specific brand name item and no substitute brand is acceptable, the procurement is considered to be limited competitive and requires a sole-make justification. In such cases the SCR should attempt to obtain offers from different distributors and the manufacturer.

Noncompetitive - 1.3.G.4.c

When the sole-make procurement requires only one specific brand name item for which no substitute is acceptable and for which there is only one source (sole-source), the procurement must be considered noncompetitive and requires sole-source or sole-make documentation. Each justification shall set forth facts and circumstances to establish that competition is not feasible or practicable.

Sole-Source and Sole-Make

Documentation Requirements - 1.3.G.5

All noncompetitive and limited competitive procurements must have an adequate, documented justification in the procurement file, unless the procurement is exempt. (See [Sole-Source and Sole-Make Documentation Exemptions - 1.3.G.5.e.](#)) The total estimated PR amount, including funds for option years, must be included when determining the approval level and documentation requirements for sole-source and sole-make procurements. Use the following to determine documentation requirements.

If the PR value is \$25,000 or less, documentation/justification is not required.

If the PR value is greater than \$25,000, then a justification memorandum must be submitted addressing the information required in the Three Part Test described in section 1.3.G.3.a in this guideline. A properly completed SF 6430-SSJ form "Sole-Source/Sole-Make Justification for Product(s) and Service(s)" may also be used.

Revisions - 1.3.G.5.a

Revisions to sole-source and sole-make procurements which already have a justification on file do not require a new justification if the changes are within the current scope of work or are a logical extension of that work. If a revision involves cardinal changes then a new justification must be submitted for the revision.

Initiating the Sole-Source and Sole-Make - 1.3.G.5.b

If the requesting organization initiates a sole-source and/or sole-make procurement, the justification should address the requirements of the Three Part Test noted above. When evaluating the justification, emphasis should be placed on the validity and substance of the justification.

The SCR may also initiate a sole-source and sole-make procurement. In such cases, the SCR will document the reasons in the Procurement file by appropriate notation, memorandum, or PAS/PAD. The substance of such reasons shall be in accordance with this guideline.

Determining the Adequacy of the Sole-Source and Sole-Make - 1.3.G.5.c

Procurement has the authority to determine the adequacy of all sole-source and sole-make procurements. The SCR is responsible for solicitation of Contractors and award of procurements within approved policies and procedures. However, the SCR shall confer with the Requester prior to seeking competition for a procurement designated as sole-source.

Approval Levels for the Line Organization - 1.3.G.5.d

Sole-source and sole-make documentation from the line organizations do not require any approval signatures since the commitment approval on the PR reflects approval of the sole-

source, and/or sole-make justification.

Exceptions: Line VP, Legal, and Personnel Department approvals are required for procurements in which former Sandians, employees of Lockheed Martin Corporation (LMC) and its subsidiaries, and DOE persons are named.

Sole-Source and Sole-Make Documentation Exemptions - 1.3.G.5.e

The following are excluded from the documentation requirements discussed previously in this Guideline:

- 8(a) set-asides,
- Federal Agency Orders,
- orders against Federal Supply Schedules (FSS),
- procurements from state and local government agencies and Indian tribes,
- consultant agreements placed under Section II SF 6432-CO, if the Memorandum of Justification for use of a consultant(s) adequately addresses the unique, restrictive nature of service(s) to be procured, and the personal qualifications of individual(s) needed to perform such services,
- orders from blind or severely handicapped sources,
- subscriptions to periodicals costing less than \$10,000 per year,
- procurements from directed sources per law or regulation (cite the law or regulation),
- items ordered under an OA only when the OA was competitively placed or when it was justified and approved as a sole-source procurement,
- procurements from higher education institutions (e.g., colleges and universities),
- procurements involving B items--items of weapon materials which the DOE production agency procures only from sources designated by the design agency--which have one designated source per Interagency Engineering Procedure EP401018 (a copy of this document is located in the PPPT),
- revisions to sole-source and sole-make procurements if within the scope of the SOW,
- procurements valued at \$25,000 or less accomplished without securing competitive quotations, (however, price reasonableness must be justified),
- all contracts/orders placed under Lockheed Martin Corporate Agreements and the Integrated Contractor Procurement Team (ICPT) Agreements.

- A sole source document need not be provided for when precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing Sandia for the cost of the acquisition of the supplies or services for such government. In these cases, laws, regulations or government-to-government agreements may direct that some contracts be negotiated with Contractors on a sole-source basis. The SCR should document by citation the law, regulation or agreement directing such procurement.

Any procurement which falls within these categories must have a statement in the PAS/PAD (or in Oracle if the procurement is valued at \$25,000, or less) citing the exclusion, if one is required.

Reminder: Even though a procurement is exempt from sole-source and sole-make, documentation, the SCR is still responsible for determining price reasonableness and for documenting the basis for such determinations.

Coding Requirements - 1.3.G.6

For reporting requirements to DOE, procurements will be coded as competitive, noncompetitive or exempt. The SCR is responsible to ensure entries made on the Oracle screen, or PR, correctly reflect the competitive, noncompetitive or exempt reporting status.

Competitive - 1.3.G.6.a

Code the following types of procurements as competitive

- procurements where adequate price competition or technical competition exists,
- limited competition procurements where more than one responsive offer is received,
- procurements where more than one source was solicited but only one responsive/acceptable offer was received,
- procurements of architect and engineering services when the competing firms are ranked according to their ability to perform the required service and contract is awarded to the highest ranked firm willing to perform at a reasonable price, rate or cost,
- procurements of items ordered under an OA--if the OA was awarded on a competitive basis or multiple responsive/acceptable offers for the order were obtained, and
- orders placed against Federal Supply Schedules (FSS).

Noncompetitive - 1.3.G.6.b

Code the following types of procurements as noncompetitive:

- procurements greater than \$25,000 which are justified as sole-source,
- procurements of items ordered under an OA if the original OA award was justified as sole-source or multiple responsive/acceptable quotations were not obtained.

Exempt - 1.3.G.6.c

The types of procurements identified under Section 1.3.G.5.e - Sole-Source and Sole-Make Documentation Exemptions, as well as the following, should be coded as exempt:

- procurements of utilities (electric power, gas, water or other),
- procurements from directed sources per law or regulation (cite the law or regulation),
- nonpurchase agreements, (i.e., Lockheed Martin Corporation corporate services rendered pursuant to the DOE/Lockheed Martin Corporation prime contract), and
- all orders/contracts placed under Lockheed Martin Corporate Agreements (EL), Engineering Process Improvement Agreements (EP), and the Integrated Contractor Procurement (ICPT) Agreements (EM).

Note: Orders against Federal Supply Schedules (FSS) are listed under Section 1.3.G.5.e, they should however, be quoted as competitive since all FSS are awarded using competitive procedures.

References - 1.3.G.7

- Policy and Guideline 3.2 - Contract Price/Cost Considerations
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Send feedback on ideas and information on this page to the Process Expert, Randy Shibata.



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